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OFFICE OF PETITIONS

In re Application of
Walter Denis SITEMAN :
Application No. 10/578,468 : DECISION ON PETITION
Filed: May 05, 2006 :
Attorney Docket No. SITG008 :

This is a decision on the petition, filed June 29, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of December 08, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before March 08, 2010.

Petitioner asserts that a timely reply was submitted via facsimile on March 08, 2010. A review of the Office records indicates that a response was received in the Office on March 08, 2010, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of December 08, 2009 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

This application is being referred to Technology Center AU 3754 for appropriate action in the normal course of business on the reply received with petition.



Thurman K. Page
Petitions Examiner
Office of Petitions